



November 2, 1999

Mr. Scott Fawcett  
Legal Counsel  
Open Records Division  
Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

OR99-3104

Dear Mr. Fawcett:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127777.

The Comptroller of Public Accounts (the "Comptroller") received a request for information concerning the Governor's Protective Detail. You have submitted the responsive information in your possession to this office for review.<sup>1</sup> You do not express an opinion as to whether this information is excepted from public disclosure. However, you raise section 552.108 of the Government Code and include a letter from the Texas Department of Public Safety (the "DPS"), which you characterize as its official objection to the release of the subject information. You have also supplied a copy of a letter submitted to this office by the DPS which presents argument for withholding the information under section 552.108 of the Government Code. In Open Records Decision No. 586 (1991), this office ruled that the need of another governmental body to withhold requested information may provide a compelling reason for nondisclosure under section 552.108.

This office currently has a pending request, identification number 127849, for a decision which concerns several requests made to the DPS for information of the type at issue in this ruling. The DPS has provided argument supporting its contention that the subject information is excepted from disclosure by section 552.108 of the Government Code. Pursuant to section 552.304 of the Government Code, the Office of the Governor has also provided comment, arguing that the subject information is excepted from disclosure by section 552.108(b)(1) of the Government Code.

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<sup>1</sup>You relate that you do not have requested supporting vouchers and related documents. The Public Information Act does not require a governmental body to obtain information not in its possession. Open Records Decision No. 558 (1990).

Section 552.108(b)(1) excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. When section 552.108(b) is claimed, it must be demonstrated how releasing the information would interfere with law enforcement, if the information does not supply that explanation on its face. Open Records Decision No. 434 at 3(1986).

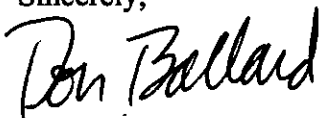
The DPS asserts that information that reveals details about the Governor's Protective Detail could be used to determine the nature and extent of the protection afforded the Governor. It contends that release of such information would undermine the effectiveness of the security for the Governor and compromise the safety of the Governor and the members of the detail.

The Office of the Governor asserts that, from the type of information here requested, potential criminals can ascertain unique and sensitive activities that are conducted by DPS officers carrying out their security duties. They further contend that, because the DPS' efforts to provide security are successful in part because of the public's inability to predict the composition of the Detail, and the types of security measures it provides, release of information of the type requested constitutes an inherent danger.

We conclude that it has been demonstrated that release of the subject information would interfere with law enforcement or prosecution. The Comptroller may therefore withhold this information on behalf of the DPS, pursuant to section 552.108(b)(1) of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard  
Assistant Attorney General  
Open Records Division

DB/nc

Ref: ID# 127777

Encl. Submitted documents

cc: Mr. Mike Ward  
Austin American-Statesman  
P.O. Box 670  
Austin, Texas 78767  
(w/o enclosures)